

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN YU

Petitioner,

No. 2:11-cv-0110 JAM CKD

vs.

GARY SWARTHOUT

Respondent.

ORDER

_____/

Petitioner, a state prisoner, filed an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 8, 2012, respondent filed a motion to dismiss that, if granted, would be dispositive as to all of petitioner's claims. In response to the court's order of November 28, 2012, petitioner, through counsel, expresses no opposition to respondent's motion to dismiss.

In accordance with the above, IT IS HEREBY ORDERED THAT:

1. Respondent's motion to dismiss (Dkt. No. 22) is GRANTED;
2. The clerk is directed to close this case; and

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3. The court declines to issue a certificate of appealability as referenced in 28 U.S.C. § 2253.

Dated: December 18, 2012


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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